

From: Robin Reynolds

To: Steve Shaffer

Subject: Review of the "Confidential Draft" of Chapter 8

Date: January 6, 1999

The italicized first paragraph of the first page accurately reflects the policy of the CDFA, and was negotiated word-by-word with CALFED. The CDFA expects this to remain unchanged without prior, formal consultation with the Secretary of Food and Agriculture. All of the CDFA comments on the balance of this draft material are based on this paragraph, in the overall contexts of CEQA and the long-standing participation of CDFA in CALFED and the CEQA process as it applies to CALFED.

General Comment: This falls far short of an adequate treatment under CEQA. More specific comments follow:

X 1. Treatment of agriculture in the same context as social and economic issues is entirely inappropriate and indefensible under CEQA. Agriculture is part of the existing environment under CEQA (as stated clearly in the italicized first paragraph of the first page, and in the CEQA Guidelines). As such, CEQA requires that impacts to agricultural resources be addressed in certain specific ways. Social and economic effects, on the other hand may be treated in any manner (including not at all) that the Lead Agency desires. Since dramatically different standards apply to impacts on the existing physical environment (including human uses) as opposed to social and economic effects, it is improper to lump them together. Agricultural resources, impacts on these resources, and mitigation (including monitoring and reporting) must be separated from mere social and economic issues.

X 2. Throughout the document it is claimed that significant adverse impacts on agricultural resources are unavoidable. This is a conclusary statement. In fact there is no evidence that avoidance of impacts was considered in the planning of the CALFED program elements which have the potential for adverse impacts. CEQA requires that avoidance of adverse impacts be integrated into the planning process.

3. Throughout the document there are assertions that the CALFED program will have some benefits to agriculture. To some extent these may mitigate for some of the significant adverse impacts. Nowhere is there a mechanism for monitoring either the impacts or the efficacy of mitigation. Both of these are required.

4. The last sentence of page 8.1-4 reads: "The availability and reliability of supply of high quality water limits the productivity of important farmlands." This statement is correct. From this it follows that any decrease in water supply for agricultural use, including the re-direction of water from agricultural to any other use is a significant adverse impact of the CALFED program.

5. The two sentence Section 8.1.2 states that there are no areas of controversy, and then asserts that there are controversial issues but no disputes among experts. This mixes and confuses to very separate issues under CEQA: Controversy, and disputes among experts. On both of these, the document is incorrect.

- First, the comments received on the previous Draft EIR and the issues raised by the CDFA, (the state agency responsible for protecting California agriculture) during scoping and preparation of the EIR, clearly identify much profound controversy. This must be described fully in the EIR, including in the summary. (15123)
- Second, there are very real and significant disputes among experts. For example, the very foundation concept that construction and operation of habitat will achieve CALFED goals at all, let alone in the most effective manner with the least adverse impact on the existing environment has been questioned by many, including some of the scientific experts engaged by CALFED to evaluate the program. In another example, the relative roles of past habitat losses and the impacts of exotic organisms on the populations of the species which CALFED is attempting to enhance, is an area of significant dispute among experts.

Both the controversy and the disputes among experts must be clearly laid out. This should be in separate sections. Failure to adequately consider controversy and disagreement among experts makes it impossible for the public and decision makers to be adequately informed. This is one of the primary roles of an EIR.

6. One of the potentially viable mitigation measures for impacts on agricultural resources is for CALFED to acquire water for the new demands of its proposed program from sources other than agriculture. This will undoubtedly result in higher costs to CALFED, and will likely require development of "new water". Unless these alternatives are developed and described, the true costs of the CALFED program cannot be known. Simply because re-allocation of water from one resource to another is probably the least (short-term) cost alternative does not diminish the requirements of CEQA for a range of alternatives, capable of avoiding or reducing significant adverse impacts on the existing environment.

* 7. An EIR is required to discuss compatibility with existing zoning and adopted plans. This should be an entire chapter with maps and summaries and plans of all plans.

2. 8. Under cumulative impacts section 8.1.4.6, quantify the losses of agricultural land and water to environmental uses over the past 15 years, at least. This must include "mitigation projects." Separate discussion of ESA relating pumping restrictions on SWP and CVP, with acre-foot per year loss equivalents, for each year since passage of the ESA.

9. To section 8.1.4.2 add the following:

- * • Short-term acquisition of water resources from agricultural use for non-agricultural use.
- loss of water ✓ • Permanent or long-term acquisition of water resources from agricultural use for non-agricultural use.

* 10. Under CEQA the impacts and mitigation measures must be developed in substantially the same level of specificity as the underlying action proposed. Therefore the statement on page 8.1-9 that "...project-level information is not available points to a shortcoming of the EIR and the CALFED planning process. It may well be that CALFED developed a level of detail for certain elements of the proposed program (such as the ERPP) which greatly exceeds what was needed for a programmatic assessment; nevertheless, since this is what the Lead Agency has done, the treatment of the existing environment, impacts, mitigation, and monitoring and reporting must now be taken to the same level of specificity as the underlying action.

Real question 2.

11. Under section 8.1.4.1 only the incremental increase in water demand is considered to be an impact. While the increases in water demand are especially important in this analysis, the redirection of water use from agricultural to other uses is also a significant impact under CEQA, and must be quantified, avoided, reduced, and otherwise mitigated.